

REMARKS

In the October 1, 2004 Office Action, the Examiner rejected Claims 1-3 and 5-16 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,669,558 to Wolters et al. ("Wolters"). The Examiner further rejected Claims 1-8 as being anticipated under 35 U.S.C. 102(e) by EP 576,737 A1 to Strubbe ("Strubbe"). Claims 1-16 are currently pending in this Application.

Anticipation of Claims 1-3 and 5-16 by Wolters:

The Applicants have amended independent Claims 1, 10, and 16 to more particularly point out and describe what the Applicants view as their invention. More specifically, Claims 1 and 10 have been amended to specify that the upper deflector panel 100 of the deflector 98 is adjustable to varying downward orientations acute to horizontal so as to be located in differing regions of the path of an upwardly directed flow of tailings discharged therethrough for deflecting the flow downwardly and dispersing the flow vertically. Claim 16 has been amended to specify that both the upper deflector panel 100 and side panel 102 are adjustable to varying downward and sideward orientations at angles acute to the path of tailings so as to deflect downwardly and disperse the tailings flow substantially equally over a region of the sieve. Such advantages are clearly contemplated in the Specification of the present invention at Paragraphs 8 and 38. As such, no new matter has been added.

Alternatively, Wolters does not contemplate or disclose an adjustable upper deflector panel (i.e. top of 62, Fig. 4 of Wolters). Wolters further does not contemplate or disclose an adjustable side deflector panel (i.e. side of 62, Fig. 4 of Wolters). Instead,

both the upper deflector panel and side deflector panel of Wolters are limited to being fixed as an extension of conduit 52 and conduit exit baffle 62; simply put, the upper deflector panel and side deflector panel of Wolters cannot be adjusted to "be positioned and oriented differently for different applications", as disclosed and contemplated by the present invention. (See Paragraph 38.) In light of the above amendments, it is respectfully submitted that independent Claims 1, 10, and 16 are distinguishable over Wolters and thus patentable and in condition for allowance. It is further submitted that dependent Claims 2-3 and 5-9; and 11-15 are also patentable and in condition for allowance as being dependent upon allowable base Claims 1 and 10, respectively.

Anticipation of Claims 1-8 by Strubbe:

The Applicants have further amended independent Claim 1 to more particularly point out and describe what the Applicants view as their invention. More specifically, Claim 1 has been amended to further specify that the deflector 98 comprises a side deflector panel 102 positionable adjacent a forward side region of the outlet 62, relative to a forward direction of operative travel of the agricultural combine, so as to be located in the path of at least a portion of the upwardly directed flow of tailings for deflecting and dispersing the flow horizontally. Such an embodiment is clearly disclosed in the Specification of the present invention at Paragraph 37 and at least in Figs. 1 and 11-12. As such, no new matter has been added.

In contrast, Strubbe does not contemplate or disclose a forwardly located side deflector panel. Instead, Strubbe only discloses and contemplates a rearward side deflector panel. More particularly, and in reference to Figs. 1-4 (forward direction of

travel is viewed as going from right-to-left in Figs. 1-4), Strubbe limits its side deflector panel to "an extension of rear wall 71 (as seen in the direction of operative travel of the harvester) of the outlet portion 70 [Fig. 4]" (See Column 6, Lines 46-48.) As further evidence, "The deflector 72, which is only schematically shown in Figure 3, comprises a generally straight portion 74 in alignment with the rear wall of the housing 70 already mentioned . . ." (See Column 6, Lines 50-54.)

In light of the above amendment to Claim 1, it is respectfully submitted that independent Claim 1 is distinguishable over Strubbe and thus patentable and in condition for allowance. It is further submitted that Claims 2-8 are also patentable and in condition for allowance as being dependent upon an allowable base claim.

Conclusion:

In summary, and in accordance with the above amendments and Remarks, it is believed that pending Claims 1-16 are in position for allowance.

It is also believed that a one-month extension of time fee is due for the filing of this Amendment. Thus, the United States Patent and Trademark Office is hereby authorized to charge \$120.00, or any additional fee required to secure entry of this Amendment, to deposit account No. 03-1025. The Examiner is requested to contact the undersigned at the telephone number appearing below if such would advance the prosecution of this application.

Respectfully submitted,

By: Brant T. Maurer
Brant T. Maurer
Attorney for Applicant
Reg. No. 53,285

CNH America LLC
Intellectual Property Law Dept.
700 State Street
Racine, Wisconsin 53404
Customer No. 26637
(262) 636-5368

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